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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,499	12/19/2001	Rongjun Zhang	3993968-126973	9359

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EXAMINER

KIM, CHONG HWA

ART UNIT PAPER NUMBER

3682

DATE MAILED: 08/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/026,499

Applicant(s)

ZHANG ET AL.

Examiner

Chong H. Kim

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 32-35 is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Jul 7, 2003 has been entered.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-7, 10-18, and 21-31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1, 10, 21, 23, and 27, as amended, includes a limitation concerning the sensor receiving input from only one pedal. It is a new matter which was not described in the specification as originally filed. The specification describes, on page 19, lines 1-12, that each "control pedal 12a, 12b preferably includes a separate sensor 114 at the drive screw 50".

Furthermore, the specification describes that "a single sensor 114 can be utilized which is located

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at the drive screw 50 at the end of the drive chain". Although the specification indicates that a single sensor can be utilized to detect the movement of the control pedal, it does not provide a concise explanation as to how the sensor receives input from only one pedal. From the knowledge gleaned from the entire specification, it appears that both pedals 12a and 12b send signals to the sensor (if only one sensor is utilized) as shown in Fig. 7. In Fig. 7, the movement input of the control pedal 12a and 12b affect the sensor 114 and not just one control pedal. And such suggestion is supported on page 15, paragraph [0036], lines 1-4, stating that "the control system 13 preferably includes...at least one sensor 114 for detecting motion of the control pedals 12a, 12b such as rotation of the drive screws 50." (Note the plural noun, the drive screws 50). No where in the specification states or suggests that the sensor receives input from only one pedal.

No meaningful search has been done because of the new matter issue.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 8 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Chapman et al., U.S. Patent 6,450,061 B1.

Chapman et al. shows, in Fig. 4, a control pedal assembly comprising, in combination;

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first and second control pedals (AC and CL), each control pedal comprising a first support 2 and 4, a screw secured to the first support, a nut N threadably engaging the screw and adapted to axially move along the screw upon rotation of the screw, and a second support (levers connecting the pedals and the screws) operatively connected to the nut for fore-aft movement of the second support relative to the first support upon axial movement of the nut along the screw;

a control system including at least one motor 1 operatively connected to the screws to selectively rotate the screws and axially move the nuts along the screws, a rotational sensor A carried by one of the first and second control pedals, and a controller 22 in communication with the sensor to receive signals from the control device;

wherein the rotational sensor is located away from the motor and near the screw; and  
wherein the controller is adapted to automatically stop the motor when signals from the sensor indicates that at least one of the motor and the screw is not rotating.

6. Claims 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Chapman et al., U.S. Patent 6,450,061 B1.

Chapman et al. shows, in Fig. 4, a control pedal assembly comprising, in combination;

a first support 2;

a screw secured to the first support;

a nut N threadably engaging the screw and adapted to move axially along the screw upon rotation of the screw;

a motor 1 operatively connected to the screw to selectively rotate the screw and axially move the nut along the screw;

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a second support (the lever connecting the pedal and the screw) operatively connected to the nut for fore-aft movement of the second support relative to the first support upon axial movement of the nut along the screw;

a sensor A located to directly sense the movement of the first support relative to the second support;

a controller 26 in communication with the sensor to receive signals from the sensor, wherein the controller is adapted to automatically stop the motor when signals from the sensor indicate that the first support is not moving relative to the second support;

wherein the sensor is a rotational sensor and is located near one of the first support and the second support to sense relative rotational movement therebetween.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1-7 and 10-31 have been considered but are moot in view of the new ground(s) of rejection.

8. In response to the applicant's argument that Chapman et al. fails to disclose a rotational sensor as claimed in claims 8 and 9, it is the Examiner's view that Chapman et al. shows a rotational sensor. The applicant describes in the specification, in paragraphs [0039] and [0040], that the sensor 114 detects the rotational information of the drive screw 50. Nowhere in the specification indicates or suggests that the sensor 114 is rotating. As it is gleaned from the functionality of the sensor 114, it appears that the sensor does not rotate but simply detects the rotational movement of the screw. Likewise, the sensor P of Chapman et al. functions the same as the applicant's sensor by detecting the rotational movement of the screw. Therefore, there is

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essentially no difference between the sensor as disclosed by Chapman et al and the Applicant's sensor as recited in the claims.

*Conclusion*

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chong H. Kim whose telephone number is (703) 305-0922. The examiner can normally be reached on Monday - Friday; 9:00 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Bucci can be reached on (703) 308-3668. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

chk  
August 25, 2003

  
**CHONG H. KIM**  
**PRIMARY EXAMINER**